

# ARNOLD & PORTER

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July 18, 2002

Commissioner for Patents  
Washington, D.C. 20231

**Attn: Box DAC**

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**JUL 22 2002**

**OFFICE OF PETITIONS**

Re: U.S. Patent Application No. 09/447,505  
Filed: November 23, 1999  
For: Molecular Farming  
Inventors: Robert M. GOODMAN *et al.*  
Atty. Docket: 16518.076

Sir:

Transmitted herewith are the following documents for appropriate action by the U.S. Patent and Trademark Office (USPTO):

1. Facsimile copy of an executed Revocation of Prior Power of Attorney, Appointment of New Attorneys of Record and Change of Correspondence Address;
2. Petition for Extension of Time under 37 C.F.R. § 1.136 (in duplicate);
3. Petition for Revival of an Unintentionally Abandoned Patent Application under 37 C.F.R. § 1.137(b) (in duplicate);
4. Amendment and Response to Restriction Requirement;
5. Arnold & Porter check no. **9203126** for \$1,280.00 to cover the fee for a petition to revive unintentionally abandoned application; and
6. Return postcard.

Please stamp the postcard with the filing date of these documents and return it to our courier.

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# ARNOLD & PORTER

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Commissioner for Patents

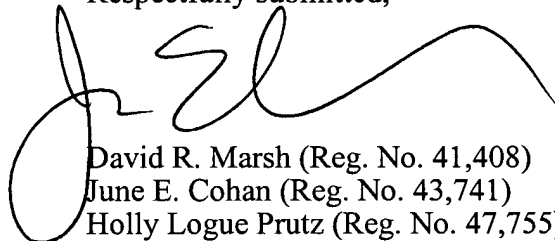
July 18, 2002

Page 2

Applicants hereby authorize the Commissioner to charge the five (5) month extension of time fee of \$1,960.00 to Arnold & Porter Deposit Account No. 50-1824.

Applicants do not believe that any other fees are due in conjunction with this filing. If, however, any additional fees are due with this submission, including any extension of time fees required to prevent abandonment of this patent application, then such extensions of time are hereby petitioned. The Commissioner is hereby authorized to charge any fee deficiency, and/or credit any overpayment, to our Deposit Account No. 50-1824, referencing matter number 16518.076. A duplicate copy is enclosed.

Respectfully submitted,



David R. Marsh (Reg. No. 41,408)  
June E. Cohan (Reg. No. 43,741)  
Holly Logue Prutz (Reg. No. 47,755)

Attachments



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COMMISSIONER FOR PATENTS  
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WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
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09/447,505

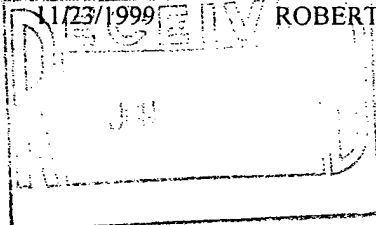
11/23/1999

ROBERT M. GOODMAN

CGNE.023.08U

CONFIRMATION NO. 3907

Alissa M. Eagle  
Caglene LLC  
1920 Fifth Street  
Davis, CA 95616



\*OC000000006184918\*

Date Mailed: 06/14/2001

**NOTICE REGARDING POWER OF ATTORNEY**

This is in response to the Power of Attorney filed 05/15/2001.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Customer Service Center

Initial Patent Examination Division (703) 308-1202

ATTORNEY/APPLICANT COPY

**UNITED STATES PATENT & TRADEMARK OFFICE**  
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND											
1 Date of Request: <u>8/13/02</u>		2 Serial/Patent # <u>09/447,505</u>									
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT							
<input type="checkbox"/>	Filing			\$							
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APPROVED: <u>[Signature]</u>		DATE: <u>8/14/02</u>									

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**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/447,505 11/23/99 GOODMAN

R CBNE.023.08U

EXAMINER

HM22/0320

BERTAM I ROWLAND  
TOWNSEND AND TOWNSEND  
STEUART STREET TOWER  
ONE MARKET PLAZA  
SAN FRANCISCO CA 94105

COLLINS, C

ART UNIT

PAPER NUMBER

1638

DATE MAILED:

03/20/01



Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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JUL 22 2002  
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## Office Action Summary

Application No.

09/447,505

Applicant(s)

GOODMAN ET AL.

Examiner

Cynthia Collins

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a) in no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11/23/99.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-44 are subject to restriction and/or election requirement.

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## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s): \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1,14, 23-29, and 33-44, drawn to a method for producing an expression product of a mammalian viral pathogen gene, plant matter, and dicotyledonous plant cells, classified in class 435, subclass 419, for example.
  - II. Claims 15-22, 29, and 30-32, drawn to an expression product of a mammalian viral pathogen gene, classified in class 530, subclass 300, for example.

The inventions are distinct, each from the other because of the following reasons:

2. The inventions of Groups I and II are distinct products because the products are structurally and functionally distinct from each other, and because the products can be used in different methods. Thus the inventions of Groups I and II are each capable of being separately made, independently used and the patentability of one would not render the other obvious or unpatentable.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, their recognized divergent subject matter, and the requirement for different areas of search, restriction for examination purposes as indicated is proper.
4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).



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5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Collins whose telephone number is (703) 605-1210.

The examiner can normally be reached on Monday-Friday 8:45 AM -5:15 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Hutzell can be reached on (703) 308-4310. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and 1 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

*cc*  
Cynthia Collins  
March 15, 2001

ELIZABETH F. McELWAIN  
PRIMARY EXAMINER  
GROUP 1800  
*Elizabeth F. McElwain*